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MALABAR AND LEGISLATIVE EXPERIMENTS.

II. TENANCY BILL.

In the matter of tenancy legislation also, Travancore has had the lead. The Royal Proclamation of 1042 (1867) declared all kanoms of jenm lands irredeemable. This Proclamation was not apparently the first to deal with the matter for it refers to the earlier instructions of 1002 by the then Ruling Prince to the Court of Appeal regarding the very matter. The Royal Proclamation of 1042 was construed by Courts as not applying to non-Brahmin Jenmis. This defect was remedied by the Jenmi and Kudiyan Regulation of 1071 (1896). This Regulation as well as the earlier Proclamation regulates only the relations between the kanomdar and the jenmi under whom he holds. Jenm land is defined as land which is either entirely exempt from the Government tax or if assessed to revenue is subject only to payment of Rajbhogam, occupancy right in which is created for a money consideration (kanom) and is also subject to the payment of customary dues and the periodical renewal of the right on payment of certain fees. In other words, the land must be jenm land and the tenure must be one having the following incidents: (1) it must be created for consideration; (2) it must be subject to payment of micharom and other customary dues; (3) it must be subject to renewal. If any of these conditions do not exist, the Regulation does not apply. For instance, it would not apply to usufructuary mortgages nor to sub-kanoms nor to transactions which reserve no micharom nor to those which expressly provide for redemption at a particular period without contemplating a renewal. Certain kinds of transactions were presumably subject to renewal and what this Regulation provided—as its predecessor also did—was to make them irredeemable. The Regulation does not apply to any

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kanom created after 1042 which expressly provides for redemption. In the case of contracts entered into for the first time after the Regulation the question whether the tenure is terminable or not is to be determined on the construction of each contract.

In cases governed by the Regulation it declares the tenure to be permanent, heritable, and transferable, but subject to forfeiture for non-payment of rent for 12 years or renewal fees for one year, wilful denial of title persisted in even at the first hearing of the suit, and wilful waste. In the first and third cases, the forfeiture is relievable on certain conditions. On eviction in these circumstances, the tenant is entitled to improvements. The tenant may surrender at the end of each term of twelve years on payment of arrears of rent but then he forfeits all claim to improvements. Failing surrender, the tenant is bound and entitled to obtain a renewal on payment of the customary fee. There are also provisions for enhancement and reduction of micharom and also for reduction of interest on the kanom under certain circumstances. Enhancement of micharom is subject to the rule that the pattom shall not exceed one-fourth of the gross produce. Arrears of micharom and renewal fees are declared a charge on the holding. Such in brief are the provisions of the Travancore Tenancy Regulation. It gives, in fact, effect to one theory of kanom and acting on the presumption that old kanoms were irredeemable declares them to be such and as to the future leaves parties at liberty to say whether they are to be redeemable or not. The Regulation proceeds on cautious, conservative lines and causes least disturbance.

The Cochin Regulation of 1914 proceeds on much the same lines, though it includes also a comprehensive measure dealing with compensation for tenants' improvements on the lines of the Madras Act of 1900. So far as the conferring of permanent occupancy is concerned, it restricts its benefit to kanom tenants, whose tenure originated before 1884. It provides for eviction in the following cases :—(1) On non-payment of rent for three years ; (2) on non-payment of renewal fee for one year ; (3) on refusal to pay enhanced rent or enhanced kanom ; (4) on a wilful denial of title ; (5) on a wilful waste ; (6) on assignment or transfer without notice to landlord ; and (7) when the landlord wants land for *bona fide* purpose of extending his residence or for agricultural improvement involving outlay which the tenant would not or

could not undertake. Like the Travancore Regulation, this one also provides for increase or reduction of micharom under certain circumstances. The landlord is also entitled to an enhanced kanom up to twelve times the micharom or interest at the old kanom rate. The renewal fee is fixed at 27 1|2 per cent. of the kanom. Arrears are declared a charge. Here again, we find no comprehensive legislation conferring occupancy rights on tenants generally or even on kanom tenants generally. It only recognises the rights of ancient kanomdars to fixity of tenure; it purports to right an ancient wrong, and does no more.

Mr. Krishnan Nair's Bill goes much further. In the first place, it confers right of occupancy on all kanoms irrespective of their date. It also confers rights of occupancy on ordinary lessees and sub-lessees in occupation for six years and more including persons who *bona fide* believe themselves to be such and are in possession. This is apparently without reference to the person under whom they hold. The usufructuary mortgagee might be in possession and might have introduced a lessee. Though the mortgagee himself is liable to be redeemed the lessee under him is apparently entitled to claim permanent occupancy. If the rulings under the Tenants' Compensation for Improvements Act should be applied, persons coming in under invalid leases or invalid kanoms might claim the benefit of the Act. One noticeable provision is that the landlord may resume lands in occupation of lessees other than the tenants' homesteads for *bona fide* cultivation by himself. This provision is felt necessary by reason of the application of the Act without reference to the means and the position of the landlords. They might themselves be cultivators temporarily unable to carry on cultivation. They might be lessees or they might be small proprietors and the leasing might have been due to temporary causes. They might be people who have not lost their *animus revertendi* to agricultural pursuits. Without a provision like this, to confer occupancy rights on all tenants would have been a real hardship on the landlords and would have meant only the creation of one set of discontent in place of another. One is not certain if the Bill even with this provision will not have that effect. The question of conferring occupancy right on all tenants is bound up with many difficulties. Just as over-concentration of land is an evil, over-division is equally so and the Legislature should note the danger ahead in the course suggested of conferring

occupancy rights on all tenants. Already holdings are very small and further division might reduce their size still further. The loophole left by Mr. Krishnan Nair's Bill has this grave objection that it takes away the fixity of tenure conferred with one hand, with the other. Again, there is not much good in conferring fixity of tenure on the modern scale of rents except in the case of large estates where old tenants continue and the tenants' interest is substantial. A provision for interfering with rents with a view to bringing them down to an equitable level has its dangers in that you cannot do that without trenching on many small incomes. It will be found that in many cases because agricultural incomes of these landlords were felt to be inadequate for their support, they had to abandon their agricultural occupation. The problem would be much easier if legislation is restricted to bigger estates and to tenants immediately under such estate holders or, in the alternative, to those in actual occupation. If the object is to destroy monopoly in land a schedule of big estates might well be compiled in which legislation on the lines of the Estates Land Act might be undertaken conferring occupancy rights on all tenants in actual occupation or what is undoubtedly a more just course, introducing a compulsory system of sale of the occupancy after the manner of S. 46 of the Estates Land Act. We would deprecate the creation of a tangle of permanent interests in land like those of the jenmi, the kanomdar, the sub-kanomdar, the lessee and sub-lessee at the same time, all permanent. We would much rather prefer only two interests, the jenm and the occupancy to be recognised. The kanomdar must be redeemed or at least the redemption value must be fixed and the interest set off as against a new equitable rent on a fixed proportion basis of the yield.

There is a possibility of fixing such a rent in the case of the kanomdar, the assessment of the rent being always on more favourable basis in his case than in the case of the verumpattomdar. Kanomdar as such has no special claims to differential treatment except perhaps in the case of very ancient kanoms which are not many. In other cases, his claim when he is non-cultivating is no higher than that of any other class of tenants. If conferring occupancy right is determined upon, the proper thing to do is to confer occupancy right on every tenant in occupation without reference to the circumstance whether he is a kanomdar or verumpattomdar or some other

kind of tenant. But if occupancy is to be made the basis of the grant, a question might arise whether cessation of occupancy should not lead to its extinction. With that we introduce the complication of non-occupancy tenure under the Bengal Tenancy Act. Such complications will take away from the value of land enormously and, in so doing, the Legislature might possibly be removing one of the very incentives for improvement.

B. SITARAMA RAO.

SUMMARY OF ENGLISH CASES.

PRITCHARD *v.* BETTISFIELD COLLIERY, LTD., (1925) 2 K. B. 284.

Workmen's compensation—Death—Compensation to dependants—Illegitimate grandchild—Workmen's Compensation Act, 1923, *S.* 2.

A workman in a colliery was fatally injured while he was getting coal at the coal face and died leaving a widow and an illegitimate grandchild under the age of fifteen, wholly dependent on his earnings. The question arose whether additional compensation was payable in respect of the illegitimate grandchild. *Held,* it was payable as S. 2 of the Workmen's Compensation Act, 1923, was intended to increase the amount of compensation for the benefit of all the persons who were actually dependent upon the earnings of the deceased workman irrespective of their legitimacy.

ELLIOTT *v.* BAX-IRONSIDE, (1925) 2 K. B. 301.

Bill of Exchange—Acceptance of bill and indorsement by Directors of a Company—Personal liability—Bills of Exchange Act, S. 26 (2)—*Endorsement —Construction—Surrounding circumstances if can be looked into.*

A bill of exchange drawn on a Company was accepted as follows :—" Accepted payable at .....Bank. X and Y, directors of .....Company." In pursuance of a requisition from the drawer that the bill of exchange should be indorsed by the directors as well as accepted by the Company, there was an indorsement on the back " . . . . Company. X and Y directors." In an action against X and Y as indorsers, *held,* they were personally liable.

Where a signature appears on a bill of exchange or promissory note, the word " directors " following the signature is a word of description only. Under S. 26 (2) of the Bills of Exchange Act, which says "In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted " the personal liability of the directors is the one most favourable to the holder.

Per Bankes and Scrutton, L. JJ.—For the purpose of construing the indorsement it is permissible to take into consideration the circumstances under which it was made.

SHARPE *v.* SOUTHERN RAILWAY, (1925) 2 K. B. 311.

Negligence—Invitation to alight—Passenger getting down without looking—Injury—Contributory negligence.

A train which arrived at a platform being longer than the platform, the carriages at the back stood outside it. A porter shouted to the passengers therein to keep to their seats. The plaintiff who was asleep in one of those carriages did not hear him, woke up suddenly and without looking out to see if he was near the platform got out in a hurry and fell down and broke his leg. He sued the Railway Company for damages. *Held,* they were not liable, the injury being due to his own contributory negligence. In order to succeed in such cases, a plaintiff has to show that the Railway Company gave him an invitation to alight at that spot under circumstances which made it negligent in them to give it.

Per Scrutton, L. J.—The mere fact of a train stopping at or near a station which is a man's destination is not, without more, an invitation to alight without looking.

In re GIBBS AND HOULDER BROTHERS AND CO. LTD.'S LEASE : HOULDER BROTHERS AND CO., LTD. *v.* GIBBS, (1925) 1 Ch. 575.

Landlord and tenant—Covenant against assignment—Permission of landlord necessary but not to be withheld unreasonably—Assignment proposed to be made in favour of another tenant—Prospect of losing a tenant—If good ground for refusing leave.

Under a covenant in a lease, the lessee was not to assign the premises without the written consent of the lessor, nor was

the latter to withhold his consent unreasonably if the proposed assignee were respectable. Permission was asked for assigning the term to a tenant of the lessor and the latter refused permission on the sole ground that he would thereby be losing a good tenant and find it difficult to get another tenant. *Held,* the refusal of permission was unreasonable. (1925) 1 Ch. 198 affirmed.

CURTIS *v.* OLDHAM, LTD., 94 L. J. K. B. 655.

Income-tax—Company—Deductions—Bad debts—Defalcations by Managing Director—Income-tax Act, 1918, *Sch. D, Cases I and II, R.* 3.

Where owing to the defalcations of the Managing Director of a Company a large sum of money had been found due from him to the Company but it was found that it could not be realised, it could not be considered as a loss connected with and arising out of the trade and as such was not a permissible item of deduction.

BUERGER *v.* CUNARD STEAMSHIP COMPANY, 94 L J K B 697.

Shipping—Bill of Lading—Exception clause—Deliberate deviation—Effect of—Loss of goods—Liability of shipowners.

A Bill of Lading under which goods were shipped contained a clause that in the case of packages containing goods of more than £20 value, the shipowners were under no liability unless the value of the goods was expressed therein and extra freight paid. Packages containing goods of more than £20 value were sent, but the price was not stated in the bill nor extra freight paid. The shipowners deviated from the contract deliberately and discharged the cargo at places different from what was agreed to between the parties. The goods being lost, there was no delivery to the consignee. In a suit for damages, the shipowners pleaded the exemption clause in the Bill of Lading. *Held, by the Court of Appeal reversing the decision of Rowlatt, J.,* there having been a deliberate deviation from the stipulated clauses, the exception clause was not available to the shipowners and they were liable in damages.

BETTS *v.* CLARE AND HEYWORTH LIM. 94 L J K B 734.

Income-tax—Company—Profits—Ascertainment of—Three years' period not available—Broken period—Income-tax Act, 1918, *Sch. D, Cases* 1 *and* 2.

A firm began to do business for the first time on 1st March, 1919, and according to its statement of accounts made a profit of £1,000 up to the end of December, 1919. The business was sold to a Company as from 1st January, 1920, and the accounts of this Company showed a profit of £12,150 for the three months ending with 31st March, 1920. In assessing income-tax for the year ending 5th April, 1925, the question arose as to the mode of computation. *Held,* as the three years' period for calculating the average income was impossible in the case, the period over which the average should be calculated could only be the period antecedent to the year of assessment, *i. e.,* 1st March, 1919, to the end of December, 1919, and not the thirteen months' period from 1st March, 1919, up to 31st March, 1920, for which accounts were taken.

HOLLAND *v.* HOLLAND, (1925) P. 101.

Divorce—Non-access— Evidence of husband —Admissibility—Still-born child.

In a petition for divorce on the ground of the wife's adultery proved by the birth of a still-born child there was no evidence except that of the husband to show non-access and therefore that he could not have been the father of the child. *Held,* the child having been still born, there was no child which could be bastardized by the evidence of the husband and therefore the rule laid down in *Russell* v. *Russell* (1924) A. C. 687 did not apply to make such evidence inadmissible.

JOTTINGS AND CUTTINGS.

The Probation System.—The section of the Report dealing with Probation naturally calls attention to the extension which the system is to receive under the Criminal Justice Act. Probation as a statutory system is quite modern. It may have had its origin in the practice of postponing sentence or of binding to be of good behaviour, but the first statute directly authorising it seems to have been passed in Massachusetts. That was in 1878, and the statute applied only to Boston. In 20 years the system had been applied in all the Courts of that State, and in the early years of this century it had become practically universal in the United States. In this country it commenced with the Probation of Offenders Act, 1907, and

amendments were made by the Criminal Justice Administration Act, 1914, which also provided for official recognition being given to Probation Societies, and for a contribution out of public funds. But the system has failed of full effect largely, it seems, through lack of proper organisation. It is this organisation which the Criminal Justice Bill is intended to secure.

—*The Law Journal,* August 8, 1925, p. 716.

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An Unintentional Marriage.—The case of *Valier* v. *Valier,* reported in the *Times* of July 10, adds another to the remarkable series in which one party to a properly celebrated marriage afterwards petitions for annulment on the ground that he (or more usually she) did not understand the nature of the ceremony. In *Ford* v. *Stier* [(1896) P. 1] and *Hall (otherwise Barrar)* v. *Hall* [(1908) 24 T. L. R. 256] the lady was the petitioner, the first being a marriage in church, the second before a Registrar. Each was successful on the ground that, although she answered the usual questions, she thought she was going through a betrothal ceremony. In the case of Valier, the " husband " was the petitioner, and his marriage was annulled for the same reason. The success of a male petitioner in such a case is very unusual, but he was an Italian, and in his native country there is a ceremony of " solemn espousal, " an exchange of promises which does not effect a marriage. That circumstance, and his ignorance of English, enabled him to obtain his decree. In each of the above-mentioned cases the marriage was unconsummated, and in the latter case the Judge gave considerable weight to that fact. If the " arrangements " contemplated in S. 2 of the Marriage with Foreigners Act, 1906, had been in working order, and the petitioner had had to procure a certificate of no impediment, the nature of the ceremony might perhaps have been brought home to him. But, for whatever cause, this section appears to be a dead letter. It is certainly undesirable that a foreigner who is party to an English ceremony of marriage should afterwards plead ignorance of its nature, and the case is worth the attention of the Foreign Office.

—*The Law Journal,* August 8, 1925, p. 717.

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Lord Hewart and Probation.—Lord Hewart, in his address, emphasised, not for the first time, the importance of avoiding sending young persons to prison and for making use of

probation. "Grave was the responsibility of those who, otherwise than in a case of clear necessity, sent any youth or girl to prison for the first time." Probation he referred to as a method the value of which could hardly be exaggerated, and its opportunities had by no means as yet been fully explored. This no doubt will be altered when the Criminal Justice Bill, with its new organisation of the probation system, becomes law. We notice that in the recent estimate of the expenditure involved in this session's Government Bills, there is an item "Contributions towards expenditure by Local Authorities on Probation System, £22,250 in 1924-25; £40,000 in 1925-26; and £50,000 a year when scheme is in full operation." It is little enough when we see the vast sums expended in far less helpful ways, and there is added :—" Note.—It is anticipated that this expenditure will eventually lead to a substantial decrease in expenditure on prisons." Lord Cave and Lord Haldane's address we must defer.

—*The Law Journal,* August 15, 1925, p. 734.

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The Indeterminate Sentence.—We referred last week to the addresses of Lord Oxford and Lord Hewart at the recent International Prison Congress. The former dealt with uniformity of sentences; the latter with the probation system. As to this system, we have pointed out that it has come to us from America, and another American experiment, the indeterminate sentence, formed the subject of Lord Cave's address. The indeterminate sentence is based upon the theory that the object of punishment is to reform. If punishment is a remedial treatment, you must continue it until the cure has been achieved, and no longer. A definite sentence is as much opposed to this principle as if a doctor was to say beforehand how long his treatment was to last. Lord Cave, according to the report of his address in the *Times* of the 8th instant, said that the system obtained in thirty-seven States of the Union. If so, there must have been a great extension since the account given in "English Prisons To-day" (1922). It is there said that no American Legislature has yet been induced to enact a really indeterminate sentence. All that has been done is to permit a sentence with a minimum and a maximum term. A prisoner must serve the minimum term, after which he may be released on parole. This comes near to the preventive detention which was introduced here by the Prevention of Crime Act, 1908, the preventive detention following on a period of

at least three years' imprisonment, and, indeed, Lord Cave seems to have treated the two systems as the same. For preventive detention, Camp Hill Prison, in the Isle of Wight, is used, and here the life of the prisoner gradually approximates to ordinary life. But Lord Cave speaks of the results as unsatisfactory. He refers to the Report of the Prison Commissioners for 1923 to 1924, as showing that out of 377 discharged from Camp Hill since the system was commenced, about two-thirds had been reconvicted or reconfined. . He regards the application of the system at the Borstal institutions as more hopeful, and it is natural that the young should prove more amenable to remedial measures. Lord Haldane, in his address, suggested that, on a true theory of punishment, it must be accepted by the criminal as the just expiation for his crimes, and in this lay its influence for reform. But we doubt whether practical prison administration lies that way.

—*The Law Journal,* August 22, 1925, page 746.

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A Retiring Age for Judges.—Mr. Laski also discusses the question of the appointment of Judges. In place of the system of nomination by the Lord Chancellor, he suggests that the appointments should be made on the recommendation of a Minister of Justice, and with the consent of a standing committee of Judges. He refers, too, to the question of a retiring age for Judges. "A Judge," he says on this point, "is, I imagine, in the first five years of his service fairly convinced that most of his opinions are wrong in critical cases ; in the second five years he will be equally convinced that they are right ; and afterwards he will bear himself with serenity whether they be right or wrong. When that serenity becomes habitual, it is time for him to retire." There are, he adds, Judges who, even at eighty, are capable of doing magnificent work ; but, in general, seventy might be a suitable age for compulsory retirement from the Bench. Given physical strength, Mr. Laski probably puts the age too low.

—*The Law Journal,* August 29, 1925, p. 759.

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Bridge.—Mr. Justice Swift, in the Court of Criminal Appeal, again called attention to the anomaly of the law of gambling which results in a game of cards by the roadside for small stakes being an offence and a game of bridge, in one's own rooms, a "respectable amusement," whatever the stakes may be.

—*The Law Journal,* August 29, 1925, p. 767.

Measure of Damages.—The jury, in a recent case, was invited on behalf of plaintiff who had been burnt during hair-dressing, in assessing damages to take into consideration the fact that she had suffered disability "in regard to dancing, swimming and all kinds of sport," which would exercise a serious effect upon her matrimonial prospects.

—*The Law Journal,* August 29, 1925, p. 767.

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Bombing from the Air.—We took occasion recently (*ante,* p. 762) to comment on the inclusion in the British Year Book of International Law of a paper on "The Doctrine of Air Force Necessity." We are aware that the writer attempted to qualify his advocacy of warfare from the air by "the condition that non-military property should be destroyed only when innocent lives were not incidentally sacrificed." This, however, is a qualification which all experience, during the war and since, has shown to be impracticable. We recur to the subject because of the bombing operations which have been and are being carried out in the war of Spain and France upon the Riffi, and we notice with interest the protests made in the *Spectator* last Saturday, and in an article by Mr. A. S. Moss-Blundell in the *Nineteenth Century* for this month. "The villages, it is said," we are quoting from the *Spectator,* "have been bombed persistently. This seems to be taken for granted as a necessary act. It is an evil legacy of German unscrupulousness in the Great War. We suppose it must be admitted that all The Hague Conventions have been swept into disuse." Mr. Moss-Blundell, who writes with intimate knowledge of the Riffi—in his view "a brave and valiant people struggling to be free"—says :

"I spent some months last winter in Tangier, and it used to make my blood boil to see Spanish aeroplanes leaving neutral territory daily to fly over Anjera hills and drop bombs upon defenceless villages, from which all the fighting men had gone to the front, and to hear of them actually mining the paths leading to these villages and so causing the death of innocent women and children."

We are not writing for the purpose of accusing any nation in particular. The same may be said whenever bombs from the air are used. The *Spectator* may be right in supposing that The Hague Conventions have been swept into disuse, but this is only in the same sense that International Law was said during the Great War to have suffered eclipse. The only effective protest, it seems, that can be made is by lawyers who

are interested in the development and maintenance of International Law, and if the present practices of European nations as to aerial warfare cannot be stopped, Grotius and his successors will have lived and written in vain.

—*The Law Journal*, September 26, 1925, p. 809.

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Viscount Cecil and the League of Nations.—The League of Nations achieves gradually the attributes of a "going concern," and, if the social commentator of the London *Evening Standard* be correct, Geneva is now, at Assembly times, a highly fashionable resort, an indication curious, but significant, of accruing substance and importance of the League. Moreover, "Mosul" affairs afford something of a crisis, and altogether Geneva comes to occupy a very much more real and lasting place in the popular interest than it did at the inception of the great enterprise five years or so ago. We wonder how many of our profession realise how essential a factor to the first birth of the League was Robert Cecil's extraordinary personality? To be in Geneva before, and at, the first Assembly, was to realise vividly the even chance that the whole conception might well, on the first practical test, collapse in an atmosphere of clamant idealism and politely suppressed ridicule. On paper it all seemed wonderful enough, but in actual fact the expedient of assembling a vast number of politicians to sit in a town hall, and to look intelligent while speeches were made in languages mostly unknown to them, was felt, as it approached realisation, to be at least hazardous. As the representatives assembled, a sense of apathy, incompetence, disability and even dislike was at first prevalent, and one felt that President Wilson's idea might well in the absence of President Wilson be a dismal failure. Very soon it became evident that hopes of vitality and reality were largely centred on Lord Robert: the impression of the time was, as we clearly recall it, that with his coming to the *Hotel Beau Rivage* the whole atmosphere noticeably improved, and that upon his official appearance, there spread a contagion of enthusiasm, happily relieved by that sense of humour which is in reality a sense of proportion, and which clears the vision, eliminates all pose, and enables gradual realisation even of the greatest projects. If this be a true assertion, it cannot be denied that, Lord Robert being essentially a lawyer, it is a great tribute to our legal profession; any man may satisfy himself that the assertion is a true one, in the first place by taking the opinion of other eye-witnesses of that

first Assembly, and in the second place by reading the leading articles on front pages of contemporary issues of that admirable publication *The Journal de Geneve.*

—*The Law Journal*, September 26, 1925, p. 810.

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The Moot.—The prospective revival of moots in the Middle Temple Hall next term has produced from a correspondent to the London *Daily Telegraph* some interesting reminiscences of old-time "moots." At one time these were a regular feature in the life of the Inns of Court, but to-day only Gray's Inn continues it as a result of the determined and successful effort, in 1875, of His Honour Judge Russell, Q. C., Bencher of the Inn and founder of the Inn's Moot Society. Our historian, studying the Moot Book, discovers in the more recent past a record of Montague Lush arguing some forty or fifty years ago that "A.," who procured a man's conviction and hanging on a spurious charge of murder and by giving false evidence, should himself be convicted of murder, and Mr. Rose, once a London Magistrate, giving a decision epitomised in the book thus, "*sus. per. coll.*"; he finds record also of one Mr. Haldane opposing one Mr. Upjohn, one Mr. Montague Cookson being opposed by one Mr. George Cave, and of Mr. Frank Lockwood presiding over a trial in which one Mr. H. E. Duke appeared for the prosecution. All these encounters took place at a date much nearer to 1875 than it was to 1925 ; perhaps it is as a result of the practice the moots afforded, and the aplomb they produced that these men, then young and, no doubt, struggling, reached the heights. The only one no longer with us is Mr. Cookson, who afterwards became Mr. Crackenthorpe.

—*The Law Journal*, September 26, 1925, p. 811.

BOOK REVIEWS.

A TREATISE ON THE LAW IN BRITISH INDIA RELATING TO THE TRANSFER OF PROPERTY, by Mr. H. K. Mukherjee, Vakil, High Court, Allahabad, with a Foreword by Mr. Justice Walsh.

This book which states the principles underlying the Transfer of Property Act will be useful as a preliminary guide to the study of the Act itself. The principles of the Law of Property are dealt with in their logical order in a manner which will be easy to the student of law to study and assimilate. Such a study will enable the student to correlate the various sections

of the Transfer of Property Act and appreciate their proper import. We therefore recommend this small work to the beginners in law.

THE CIVIL PROCEDURE CODE, by A. C. Ghose, M. A., B. L, Vakil, High Court, Calcutta. Published by Ray & Ray Chowdhury, Calcutta. Price Rs. 4.

This publication gives the bare Act of the Code and the Schedules and the Appendices to the same. The amendments of the Code are fully brought up-to-date and there is also given short notes of some of the most important recent decisions under some of its provisions. It is sometimes felt by a busy practitioner that elaborate commentaries intervening between the several sections to some extent do not tend to bring out clearly the bearing and effect of succeeding sections on the previous ones. A publication of the bare Code facilitates the grasp of the bearing of the sections to one another. The references to the sections of the old Code and of the rules of the Supreme Court will, we are sure, be found useful. We think that if the alterations, amendments and additions made by the various High Courts under their rule-making power had been embodied the utility of this book would have been greatly enhanced. Even as it is, there is no doubt that the book will be found of great use.

THE LAW OF CONFESSIONS, by S. Roy, 5th Edition, 1925. Published by the Eastern Law House, Calcutta. Price Rs. 6.

The usefulness of this book is sufficiently indicated by the fact that the fifth edition of the work has now been called for. This edition is practically a new book on the subject with the matter considerably enlarged and recast in many respects. Over nearly 500 new cases, English and Indian, have also been incorporated. The book is self-contained in all respects giving all information including the rules of the High Courts, the police regulations and all other connected matters bearing on the subject. We have no doubt that the book will be found of great assistance by Criminal Lawyers, Magistrates and Judges.

THE LAW OF SPECIFIC RELIEF IN BRITISH INDIA, by S. M. Lahiri, M. A., B. L., 1925. Published by the Eastern Law House, Calcutta. Price Rs. 6.

In this book the author has given us commentaries critical and explanatory on the Specific Relief Act with reference to

the leading English decisions explaining the principles of equity and also noting and commenting upon the Indian decisions up-to-date. The reference to the English decisions of authority embodying the principles of equity relating to the law of specific and preventive relief is absolutely necessary for a correct understanding of the Specific Relief Act which is mainly a reproduction of the leading principles of Equity Jurisprudence and the discussion of those principles by the author with reference to the cases is bound to be useful to the practitioner and the student. In recent years many important decisions by the Privy Council and by the High Courts in India have been given applying the principles to Indian conditions as, for instance, to the cases of joint family and Hindu widows and reversioners ; and the learned author has considered in these pages the effect and true scope of those decisions. The book is bound to be useful as it is not a production giving merely a list of cases on the subject but examines them critically and with reference to the underlying principles.

THE PENAL LAW OF INDIA, by Sir H. S. Gour, 3rd Edition, 1925. Published by Messrs. Butterworth & Co., Calcutta.

Sir Hari Singh Gour's *Penal Law of India* has already taken its place as a leading treatise on the subject and it is therefore hardly necessary to deal with its merits at any length. Since the publication of the last edition of this work both the Indian Penal Code and the Criminal Procedure Code have undergone considerable alterations necessitating the present edition. There has also been a large mass of case-law under the Penal Code which though not most of first-rate importance has got to be noticed in the appropriate places. One of the most important pronouncements on the Penal Code by the Privy Council which sets at rest a good deal of conflict is the recent decision in *Barendra Kumar Ghose* v. *Emperor*, 52 Cal. 197. dealing with the liability by one of several persons for a criminal act done in furtherance of their common intention and discussing the scope of Ss. 34, 114 and 149 of the Code. We don't find this case noticed in the present edition although the decision was given as early as October, 1924, and was published in the authorised series in March this year. This decision would require a re-writing to some extent of the commentaries to those sections. We have no doubt that the bench and the bar will find the present edition as useful for their work as the previous one.